

REMARKS/ARGUMENTS

Claims 25-46 are present in this application. By this Amendment, the Abstract of the Disclosure and the specification have been amended, claims 1-24 have been canceled, and claims 25-46 have been added. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

Claim 1 was rejected under 35 U.S.C. §112, second paragraph. Claim 1 has been canceled herein in favor of new independent claim 25. Applicant respectfully submits that claim 25 satisfies the requirements of 35 U.S.C. §112, second paragraph.

Withdrawal of the rejection is respectfully requested.

Claims 1-3 were rejected under 35 U.S.C. §102(b) over U.S. Patent No. 4,986,536 to Zane in view of U.S. Patent No. 4,139,132 to Fairchild, Jr. This rejection is respectfully traversed.

At the outset, Applicant respectfully submits that the grounds of rejection are improperly based on 35 U.S.C. §102(b). A rejection under §102(b) requires that the features of the claims be disclosed either expressly or inherently in a single reference. Since the rejection is premised on the application of two references, Applicant submits that the rejection is improper *as a matter of law*.

Additionally, independent claim 25 defines structure neither taught nor suggested in the Zane and Fairchild patents, taken singly or in combination. For example, claim 25 defines a function unit including a pair of counter supports facing the support and recites that the support and the function unit are configured such that when the support is

positioned adjacent a wearer's back, the counter supports are positioned adjacent respective front shoulder areas of the wearer. Moreover, claim 25 defines an operation element operatively coupled with the frame and configured to drive the counter supports toward the front shoulder areas about the swivel access, which is defined by the support coupled between the pair of actuation struts. In contrast, Zane describes a leg exerciser including a pair of shoulder braces but lacks any structure configured to be positioned adjacent a wearer's back. In fact, with reference to Fig. 6 in Zane, it is apparent that the leg exerciser is intended to be worn on the front side of the body. Still further, with the pair of counter supports disposed facing the support as defined in claim 25, and as a consequence, the operation element serves to drive the counter supports toward the front shoulder areas about the swivel axis. Since the Zane patent lacks any teaching or suggestion of structure disposed against a wearer's back, no such swivel axis is even remotely suggested.

The Fairchild patent does not correct the deficiencies with respect to the Zane patent. Fairchild discloses a backpack levers device wherein a support frame includes shoulder pads positioned on a wearer's shoulders (see, for example, column 3, lines 22-32). The Fairchild device similarly lacks a swivel axis via a support and no counter support that can be driven toward the front shoulder areas of the wearer about a swivel axis.

The structure as defined according to claim 25, for example, provides the swivel axis via the support on the back and counter supports, thereby allowing a patient to raise

the pressure on the front shoulder parts via the operation element so that a drooping shoulder can be straightened relative to the support placed on the back.

Applicant thus respectfully submits that the rejection, as it may be applied to new claim 25, is misplaced.

With respect to dependent claims 26 and 27, which have been added in place of original claims 2 and 3, Applicant respectfully submits that these claims are allowable at least by virtue of their dependency on an allowable independent claim.

Reconsideration and withdrawal of the rejection are respectfully requested.

Applicant acknowledges with appreciation the indication of allowable subject matter in claims 4-24. The subject matter of these allowable dependent claims has been essentially included in new dependent claims 28-46.

In view of the foregoing amendments and remarks, Applicant respectfully submits that the claims are patentable over the art of record and that the application is in condition for allowance. Should the Examiner believe that anything further is desirable in order to place the application in condition for allowance, the Examiner is invited to contact Applicant's undersigned attorney at the telephone number listed below.

Prompt passage to issuance is earnestly solicited.

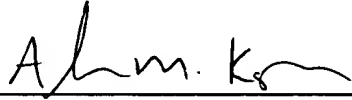
WALTER

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Respectfully submitted,

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